

Hon. Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HP TUNERS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

KEVIN SYKES-BONNETT and SYKED
ECU TUNING INCORPORATED, a
Washington corporation,

Defendants.

No. 3:17-cv-05760 BHS

DECLARATION OF JOHN WHITAKER
IN SUPPORT OF DEFENDANTS' S
OPPOSITION TO PLAINTIFF'S MOTION
TO QUASH SUBPOENA SERVED ON
GOOGLE

I, John Whitaker, hereby declare as follows:

1. I am over the age of 18, of sound mind and fully capable of making this declaration.

2. I submit that this declaration is based on personal knowledge, following a reasonable investigation into the statements appearing below. If called upon as a witness, I could and would competently testify to the truth of each statement herein.

3. I am one of the attorneys representing Defendants in the above-captioned action.

4. In conversations that I have had with counsel for HP Tuners, counsel has indicated that there is no truth to allegations made by Syked Tuning that HP Tuners and Tim Milliken worked together and were in frequent contact.

Opposition To HP Tuners' Motion To Quash – Whitaker Declaration

No. 3:17-cv-05760 BHS

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1 5. Attached as Exhibit A is a true and correct copy of pages 1 and 4 of the
2 subpoena served on Google which is the basis for HP Tuners' Motion to Quash. Pages 2 and 3
3 were omitted as being unnecessary to an adjudication of this motion. Page 2 is merely the
4 certificate of service, and page 4 is merely instructions pertaining to the subpoena.

5 6. Attached as Exhibit B is a true and correct copy of an email that I sent to
6 counsel for HP Tuners. The subject of the email is allegations that Tim Milliken was
7 performing certain tortious conduct and that he had implicated HP Tuners in that conduct.

8 7. The only contact that I ever received from HP Tuners regarding the Google
9 Subpoena was a single phone call made by Andrew Bleiman, counsel for HP Tuners, on May 7,
10 2018. Mr. Bleiman indicated that the call would be for the purpose of scheduling certain
11 depositions and "about the Google subpoena." During the call, there was an involved
12 discussion pertaining to scheduling depositions. However, the only mention of the Google
13 subpoena was a passing mention that HP Tuners would be filing a motion to quash and he
14 (Bleiman) assumed that Syked Tuning would not agree. At no point during that brief
15 conversation, which lasted no more than 30 seconds, did Mr. Bleiman ever indicate that the call
16 was being treated as a "meet and confer" pursuant to LCR 37. Nor did Mr. Bleiman ever give
17 any basis for the purported motion to quash which HP Tuners then filed the next day on May 8,
18 2018.

19 8. After reading HP Tuners' Motion to Quash, I sent an email to Mr. Bleiman with
20 certain questions which I would have asked if I had been given any notice that a meet and
21 confer was occurring. Attached as Exhibit C is a true and correct copy of the email that I sent
22 to counsel for HP Tuners.

23 9. As of today, I have received no response to the email of Exhibit C, and HP
24 Tuners has offered no answers to any of the questions.

25 10. Attached as Exhibit D is a true and correct copy of the decision in *Lucas v.*
26 *Jolin*, 2016 WL 2853576 (S.D. Ohio 2016).
27

1 11. I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct to the best of my knowledge.

3 Executed on May 21, 2018 at Seattle, WA.

4
5 By


John Whitaker

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below I did personally serve the above document on the persons and in the manner indicated below. If the manner of service indicated below is by CM/ECF, the Clerk of the Court will send email notification to such persons.

Attorneys for Plaintiff HP TUNERS, LLC

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by **CM/ECF**by **Electronic Mail**by **Facsimile Transmission**by **First Class Mail**by **Hand Delivery**by **Overnight Delivery****Attorneys for Plaintiff HP TUNERS, LLC**

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by **CM/ECF**by **Electronic Mail**by **Facsimile Transmission**by **First Class Mail**by **Hand Delivery**by **Overnight Delivery**

Executed on May 21, 2018 at Seattle, Washington.

LANE POWELL PC

By s/John Whitaker
 John Whitaker